

Indiana Department of Insurance
Title Insurance Division
New RESPA Rules and Indiana Code FAQs
May 1, 2010

The following frequently ask questions (FAQs) are being distributed in keeping with the Title Insurance Division of the Indiana Department of Insurance (Department) responsible for monitoring compliance with Indiana Insurance law and RESPA regulations. The answers reflect the Department's interpretation of the process to be used in production of the new HUD forms in compliance with Indiana law and new RESPA regulations. Please take time to review these FAQs with your staff and implement any changes appropriate in order to maintain compliance with the laws and regulations. The Department welcomes any questions or comments in regard to these procedures:

1) Q: Can I charge the "seller's" portion of the search and examination fee on line 1101 in the seller's column?

A: When asked, HUD's response states that the search and examination fees are considered "Title Services" and "must remain in Block 4 of the GFE and in Line 1101 of the HUD-1 in the borrower's column." Therefore any portion of the search and examination fees which are attributable to the seller must be given as a credit from the seller to the buyer on the front page of the HUD-1.

2) Q: Can I charge the "seller's" portion of the closing fee on the seller's side of line 1101?

A: Per a HUD representative "if it is customary for the seller to be charged a separate fee for the settlement/closing, it may be listed in line 1102 in the seller's column."

3) Q: On which line of the HUD-1 should I disclose charges to the seller for items such as deed prep, wire, overnight courier?

A: These charges may be listed on a blank line in the 1100 series with the charge in the seller's column.

4) Q: Am I allowed to itemize, within the 1100 series, the fees which make up my “Title Services” charge on line 1101?

A: HUD’s FAQs and Appendix A to Part 3500 of RESPA state that this type of itemization should only occur when a third party service provider has completed the service to be itemized. For instance, if an agent has purchased a search product from a third party the fee should be itemized on a blank line within the 1100 series. The fee can be no more than the actual amount paid to the third party for the service unless the agent utilizes the average charge formula provided in the rule. (See RESPA Rule Section 3500.8) An exception to the rule, per a HUD representative, is where a state law or governmental loan program require itemization of these services.

5) Q: How do I collect and disclose the TIEFF fee on the HUD-1 Settlement Statement?

A: TIEFF fees paid by the buyer should be included in the “title services” fee on line 1101 and itemized on a blank line in the 1100 series outside the column. TIEFF fees paid by the seller should be collected and disclosed on a blank line in the 1100 series in the seller’s column. (HUD FAQ, pg 49, Q 17). The payee disclosed on the HUD for the TIEFF fee is dependent upon how the fee is disbursed. If it is disbursed directly to the underwriter from the HUD it should be shown payable to the underwriter only. If it is disbursed to the agent for the benefit of the underwriter it should be disclosed as payable to the “agency for the underwriter.”

6) Q: Can I still include the fee for search and examination with the title insurance premiums disclosed on lines 1103 and 1104?

A: No. The all-inclusive rate was allowed under old RESPA because there was a mechanism to disclose to the consumer that the amount charged on line 1108 included something other than premium. New RESPA does not provide that mechanism and therefore **the amount shown on line 1103 for owner’s policies and 1104 for loan policies cannot be anything but premium as required by the agency contract and reported to the underwriter.**

7) Q: Where should I disclose the fee for Sales Disclosure?

A: The fees to the county auditor for Sales Disclosure should be disclosed on line 1206 of the HUD-1.

8) Q: If an agency has purchased a Search and paid for it from operating funds prior to closing how should they collect for it on the HUD statement?

A: If an agent has paid a third party service provider for a bona fide title service prior to closing the fee can be collected on the HUD to reimburse the agent. The fee should be included in the Title Services on line 1101 and itemized outside the column payable to "XYZ Title Agency for ABC Abstracting."